

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Crl.M. No. 33168-M of 2007

Date of Decision: 5.7.2007

Narinder Singh and another

....Petitioners.

Versus

State of Punjab and others.

...Respondents.

Present:- Mr.ParveenKumar, Advocate
for the petitioners.

S.S.SARON, J.(ORAL)

This petition under Section 482 Cr.P.C. read with Articles 226/227 of the Constitution of India, has been filed for issuance of directions to respondents no.1/State of Punjab to register a case/FIR against the private respondents and then take appropriate action in accordance with law.

The petitioners claim that they have their residential houses in the Abadi and within the Lal Lakir of village Aluna, Tehsil and District Gurdaspur, which have been constructed prior to the last consolidation of holdings in the village. It is alleged that the private respondents have demolished the houses of the petitioners.

After hearing learned counsel for the petitioners and perusing the record, it may be noticed that with respect to the allegations, the Deputy Superintendent of Police, Rural II, Gurdaspur, conducted an inquiry

on 22.5.2006. In terms of his report (Annexure P12) it has been found that the land in question is 'Shamlat' and belongs to the Panchayat of the village. The petitioners it was observed had taken un-authorised possession of the same. They could not produce any written proof, documents etc regarding ownership of the land. The petitioners had also filed a civil suit with regard to the land and application for interim injunction was dismissed by the Civil Court on 23.5.2005. On the basis of that the Panchayat had got the land vacated from the possession of the petitioners.

Learned counsel for the petitioners has contended that against the order dated 23.5.2005 an appeal has been filed before the District Judge and the same is pending in the Court of learned Additional District Judge, Gurdaspur. It is also contended that the inquiry (Annexure P12) conducted by the Deputy Superintendent of Police, Rural II, Gurdaspur, was an ex-parte inquiry and in which the petitioners were not associated.

In my view there are disputed questions of facts involved as regards the land in question being 'Abadi Deh' or 'Shamlat Deh' which would require the leading of evidence. In the circumstances it would be improper for this Court at this stage to issue any directions for registration of a FIR. This is more-so for the reason that the petitioners have an alternative remedy of filing a private complaint in terms of Section 190 read with Section 200 Cr.P.C. In terms thereof the Magistrate having jurisdiction over the matter is required to inquire into the complaint as provided for under Chapter XV of the Cr.P.C. Besides the Magistrate can also issue directions for investigation under Chapter XII Cr.P.C. and ask for the report. In case no sufficient grounds for proceeding with the complaint

are made out in the opinion of the Magistrate, he is to dismiss the complaint in terms of Section 203 Cr.P.C. Therefore, in the facts and circumstances, the petitioners may if so advised, avail the alternative remedy. Keeping in view the disputed questions of facts involved no directions for registration of FIR are required to be passed.

Consequently, in the light of the above observations, the present petition is dismissed.

July 05, 2007.
Reema

(S.S.SARON)
JUDGE